

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:19cr362-MHT
)	(WO)
JOHNATHAN SCOTT KELLEY)	

ORDER

On March 30, 2020, Chief United States District Judge Emily Marks entered a general order finding, pursuant to § 15002(b)(2) of the Coronavirus Aid, Relief, and Economic Security Act, H.R. 748 (the CARES Act), that "felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure ... cannot be conducted in person and in court without serious jeopardy to public health and safety." General Order, In: Re Criminal Proceedings by Video or Audio Conference, case no. 2:20-mc-3910-ECM (doc. no. 4), at 2-3. Pursuant to this general order and the CARES Act, a felony sentencing can be held by videoconferencing if the defendant consents and the individual judge finds, for specific reasons, that the sentencing cannot be

further delayed without serious harm to the interests of justice.

During a conference call on the record on April 14, 2020, counsel for defendant Johnathan Scott Kelley objected to a continuance of the sentencing hearing and requested that the sentencing be handled by videoconference. He also indicated that he had consulted with Kelley, and that after this consultation, Kelley consents to sentencing by videoconference and is willing to waive his right to in-person sentencing and allocution. The government agreed that the sentencing could proceed by videoconferencing.

Also, during the conference call, defense counsel explained the need to avoid further delaying the sentencing. Based upon these representations, the court finds that the sentencing cannot be further delayed without serious harm to the interests of justice. Kelley was brought into federal custody on a

writ from a county jail, where he was being held on state charges. He has been incarcerated since July 2018 and has been in federal custody since December 2019. He has numerous pending state felony charges from 2017 and 2018 which need to move forward, and there is a serious risk of prejudice if those cases are further delayed.

Accordingly, based on these findings, and on defendant Johnathan Scott Kelley's consent after consultation with defense counsel to be sentenced via videoconferencing, it is ORDERED that the sentencing set for April 22, 2020, at 10:00 a.m. will proceed by videoconferencing. The courtroom deputy will contact all necessary parties and participants to make arrangements for the proceedings.

DONE, this the 14th day of April, 2020.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE